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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
1998 Biennial Regulatory Review)	
Review of Depreciation)	CC Docket No. 98-137
Requirements for Incumbent)	
Local Exchange Carriers)	
)	
Forbearance from Depreciation)	ASD 98-91
Regulation of Price Cap Local)	
Exchange Carriers)	

COMMENTS OF AT&T CORP.

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COMMENTS OF AT&T CORP.

Pursuant to the Notice of Proposed Rulemaking ("NPRM") released on October 14, 1998,¹ and the Commission's Public Notice released October 16, 1998,² AT&T Corp. ("AT&T") hereby offers the following comments on (1) the Commission's NPRM proposing to revise its depreciation policies, and (2) the United States Telephone Association ("USTA") Petition for Forbearance from the Commission's depreciation rules.

¹ 1998 Biennial Regulatory Review - Review of Depreciation Requirements for Incumbent Local Exchange Carriers, CC Docket No. 98-137, FCC 98-170, released October 14, 1998 ("NPRM").

² Modification of Pleading Cycle for United States Telephone Association's Petition for Forbearance from Depreciation Regulation of Price Cap Local Exchange Carriers, ASD 98-91, DA 98-2092, released October 16, 1998.

I. INTRODUCTION AND SUMMARY.

The NPRM properly and accurately recognizes that incumbent local exchange carriers ("ILECs") continue to possess substantial market power. For that reason, the Commission proposes only limited reforms of its depreciation practices, primarily to reduce the regulatory filing burdens associated with depreciation regulation. The NPRM also proposes to change the depreciation factor for digital switching equipment and to simplify the treatment of salvage and removal costs, but otherwise suggests no substantive changes in the calculation of depreciation expenses. AT&T generally supports the reasonable changes proposed in the Commission's NPRM, which will simplify depreciation administration without sacrificing the customer protections afforded by the Commission's regulations in this important area.

In contrast to the measured approach of the NPRM, the USTA Petition seeks Commission forbearance from depreciation regulation of price cap ILECs, which include all of the country's largest ILECs. USTA, however, fails to satisfy the statutory criteria for such forbearance. Not only do the price cap ILECs continue to hold substantial market power, but the Commission's regulation

of depreciation factors is critical to the success of many important regulatory processes at both the state and federal levels. The USTA Petition must, therefore, be denied.

II. THE COMMISSION SHOULD ADOPT MOST OF THE CHANGES IN ITS DEPRECIATION POLICIES PROPOSED IN THE NPRM.

A. The Commission Should Reduce Depreciation Filing Requirements But Should Continue to Issue Orders Publicizing and Confirming Represcriptions.

Over the last several years, the Commission has reduced from 660 pages to 170 pages the amount of material that typically must be filed to support ILEC depreciation prescriptions.³ In the NPRM, the Commission proposes even more dramatic reductions, replacing today's 170 page filings with the submission of four charts.⁴

AT&T supports this change, since it would significantly reduce the administrative processes associated with depreciation regulation, while at the same

³ NPRM at ¶ 3 (assuming ILEC's proposals are within established ranges).

⁴ NPRM at ¶ 10 (assuming ILEC's proposals are within established ranges).

time not diminish the effectiveness of the Commission's oversight.⁵

AT&T does, however, object to a related proposal, which is to eliminate the formal Commission prescription of depreciation rates.⁶ Under present processes, the Commission issues a Public Notice enumerating the changes in depreciation accruals and composite rates proposed for each state and for each carrier that has filed for a represcription.⁷ Subsequently, the Commission releases an Order officially prescribing the depreciation rates.⁸ The Notice and Order provide state Commissions and the public

⁵ The Commission also requests comment on its confidentiality procedures. NPRM at ¶ 12. AT&T believes that the existing processes, under which historical data are publicly available but carrier plans are not, are reasonable.

⁶ NPRM at ¶ 10 (assuming ILEC's proposals are within established ranges).

⁷ See, e.g., Comments Invited on Depreciation Rate Prescriptions Proposed For Incumbent Local Exchange Carriers, DA 97-1622, released July 11, 1997 (seeking comments on depreciation prescriptions for three ILECs: Cincinnati Bell Telephone Company, Southwestern Bell Telephone Company, and U S WEST Communications).

⁸ See, e.g., Cincinnati Bell Telephone Company, Southwestern Bell Telephone Company, and U S WEST Communications, Inc., Prescription of Revised Depreciation Rates, *Memorandum Opinion and Order*, FCC 98-11, released January 30, 1998.

with a valuable official notification of the depreciation rates approved for each account. The availability of a public record avoids the potential for confusion and misunderstandings that may result in the absence of an official and accepted record of the permissible depreciation rates that ILECs can utilize. Continued publication of this information will avoid this possibility, and at the same time avoid burdening the Commission staff with ad hoc inquiries seeking information that would otherwise be provided in those documents.

B. The Commission's Proposed Change in the Depreciation Factors for Digital Switching Equipment Appears to be Appropriate.

The Commission has reviewed its prescribed forward-looking factors for all depreciation accounts and believes that only one account -- digital switching -- requires updating.⁹ The Commission notes that the retirement rate for digital switching equipment has risen from 1.5 percent for 1990-92 to 2.9 percent for 1995-97.¹⁰ The Commission therefore proposes a reduction in the projected life range

⁹ NPRM at ¶ 11.

¹⁰ Id. at footnote 40.

for digital switching from 16 to 18 years to 13 to 18 years.¹¹

The existing 16 to 18 year life range supports a steady-state retirement rate of 5.56% to 6.25%, well above the rate being experienced today.¹² The new projected life range implies an expected retirement rate of as much as 7.69%.¹³ While these facts might tend to suggest that the current depreciation factors could continue to be applied for some time, the Commission's judgement is that digital switching equipment will, in the future, approach retirement rates beyond the range now permitted. Given the Commission's proven expertise in this area, and its unquestioned commitment to forward-looking depreciation principles, AT&T does not oppose the Commission's suggestion to increase the range for digital switching.

C. The Proposed Changes in the Treatment of Salvage and Removal Costs Should be Adopted.

At present, depreciation expense calculations include an adjustment for forecasted net salvage, which is the

¹¹ Id. at ¶ 11.

¹² A 16 year life suggests a 6.25% retirement rate ($1/16=.0625$), while an 18 year life suggests a 5.56% retirement rate ($1/18=.0556$).

¹³ Calculated as $1/13=.0769$.

estimated difference between the salvage value of the equipment when it is someday removed from service and the cost of removal of the equipment. The Commission notes that "the estimation of net salvage is a complex and inexact process that imposes substantial burdens on both the carriers and the state and federal Commissions."¹⁴ The Commission proposes to eliminate net salvage from the depreciation formula and to record salvage and the cost of removal as a current expense in the period actually incurred.¹⁵ AT&T supports this proposal.

The idea of recording salvage and removal as expenses in the year incurred has been debated in the industry for some time. Because salvage and removal values are realized only in the future, the estimation of the present worth of these amounts has been unavoidably complicated by inexact projections of costs and price inflation. Proponents of the Commission's proposal point out that it would lessen the administrative burden of depreciation regulation, remove an area of controversy, improve the accuracy of the depreciation process, and lead to greater accountability

¹⁴ NPRM at ¶ 14.

¹⁵ Id. at ¶ 14.

for ILECs with respect to these costs.¹⁶ Additionally, analysis of actual salvage and removal experiences suggests that a change to current period accounting would not have a significant impact on ILECs' reported costs.¹⁷

Given the minimal overall effect of a change to current period accounting for net salvage, the Commission should mandate this change for all ILECs. To accommodate the fact that the impact of this change on certain individual accounts may be significant, even though the overall impact is not, the Commission should prescribe new depreciation rates to be effective January 1, 1999 that reflect the elimination of future net salvage.

The Commission also proposes to create a new Account 6566 (Net Cost of Removal) to record salvage receipts and removal costs.¹⁸ While AT&T supports the creation of this account, the Commission should also require that carriers maintain subsidiary record categories in Account 6566 to

¹⁶ See James J. Augstell, New York Public Service Commission, Gross Salvage and Cost of Removal: The Case for Current Period Accounting, *Journal of the Society of Depreciation Professionals*, Volume 3, Number 1 (1991).

¹⁷ Id. at page 32.

¹⁸ NPRM at ¶ 16.

separately report salvage and costs of removal, to permit appropriate monitoring and analysis of these results.

D. Mid-Sized LECs Should Continue To Report Theoretical Reserves.

The Commission proposes to eliminate the filing of annual theoretical reserve studies by mid-sized incumbent LECs.¹⁹ AT&T opposes this suggestion.

As the Commission notes, the effectiveness of the Commission's depreciation prescription process and the adequacy of depreciation reserves can be determined by comparing a carrier's book depreciation reserve with its theoretical reserve.²⁰ This is a simple calculation, performed once a year, but critical to the proper monitoring of a carrier's depreciation situation. There is no reason to exempt mid-sized carriers, all of which have annual revenues exceeding \$112 million, from this basic regulatory requirement.²¹ This is particularly important

¹⁹ Id. at ¶ 17.

²⁰ Id. at footnote 48.

²¹ AT&T has elsewhere described in detail the reasons why the Commission should continue to apply reasonable regulatory standards to the operations of mid-sized carriers. See, e.g., AT&T Comments on Petition for Forbearance, AAD No. 98-43, DA No. 98-480, filed May 4, 1998; Reply Comments of AT&T Corp., 1998 Biennial Regulatory Review - Review of Accounting and Cost

given that numerous ILECs have been suggesting that much of their plant is becoming "stranded" by competition and allegedly inadequate depreciation rates.²² While the NPRM demonstrates that these allegations are not true, the Commission's future ability to evaluate such claims, as well as potential ILEC requests for "make whole" compensation, will be jeopardized if this critical information is not provided in the future.

III. THE USTA PETITION SHOULD BE DENIED BECAUSE CONTINUED COMMISSION DEPRECIATION REGULATION IS NECESSARY TO ENSURE JUST AND REASONABLE RATES AND PROTECT CONSUMERS AND THE PUBLIC INTEREST.

Section 10(a) of the Communications Act permits forbearance from regulation if three conditions are met. The first condition is that "enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or

(footnote continued from previous page)

Allocation Requirements, CC Docket No. 98-81, filed September 4, 1998.

²² See, e.g., USTA at 8; but see Assessing Incumbent LEC Claims to Special Revenue Recovery Mechanisms: Revenue Opportunities, Market Assessments, and Further Empirical Analysis of the "Gap" Between Embedded and Forward-Looking Costs, Economics and Technology Inc., Appendix B to AT&T's January 29, 1997 Comments in Access Charge Reform, CC Docket No. 96-262.

telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory."²³ The second condition is that "enforcement of such regulation or provision is not necessary for the protection of consumers," while the third condition is that forbearance must be "consistent with the public interest."²⁴

USTA argues these Section 10 standards are met because (1) the Commission's depreciation policies are unnecessary given market conditions; (2) depreciation is only important for the "low end" adjustment in price caps; (3) other requirements are an adequate substitute for the Commission's regulation; and (4) the Commission's regulation of depreciation has been burdensome and inaccurate.

USTA's Petition for Forbearance must be denied. First, all of USTA's assertions in support of its Petition are incorrect, and therefore USTA has not even begun to lay the factual foundation for the relief it seeks. Second, forbearance is not a substitute for Notice and Comment Rulemaking and therefore is not appropriate where, as here,

²³ 47 U.S.C. § 160(a)(1).

²⁴ 47 U.S.C. § 160(a)(2), (3).

the Petition seeks to substantially modify the Commission's rules.²⁵

A. Commission Depreciation Regulation Remains Necessary Because Of ILEC Market Power.

The USTA Petition claims that depreciation regulation is unnecessary because marketplace forces are sufficient to police ILEC depreciation practices.²⁶ By contrast, the NPRM correctly states that sufficient competition has yet to develop in the local exchange market to permit the Commission to refrain from regulating depreciation.²⁷

In support of its conclusion, the Commission notes that ILECs retain overwhelming market power in the provision of local exchange and exchange access services. The Commission points out that the ILECs had a 99% market share in 1996 and at least a 97% market share in 1997.²⁸

²⁵ See New England Telephone and Telegraph Company and New York Telephone Company, Petition for Forbearance from Jurisdictional Separations Rules, AAD 96-66, Order, 12 FCC Rcd 2308, 2313-2315 (1997).

²⁶ USTA at 8.

²⁷ NPRM at ¶ 7.

²⁸ The Commission concluded that the local market is not competitive because "in 1996 the incumbent LECs had 99 percent of the local exchange market [and] we expect that 1997 data will show the incumbent LECs' market share at not less than 97 percent." Id. at ¶ 7 and n. 33. Subsequent Commission information confirms that the 97%

Given such an overwhelming market position, the Commission properly concludes that the time has not yet arrived when it can safely dispense with depreciation regulation.

The Commission's conclusion in this regard is well founded. Telecommunications is a capital intensive industry, and consequently depreciation represents a substantial cost item. For example, publicly available FCC data indicates that depreciation expense represents about 28 percent of the operating expenses of an incumbent LEC.²⁹ Under or over-estimates of depreciation could, therefore, have a substantial effect on ILEC costs.

Moreover, the substantial market power that ILECs possess gives them the ability to manipulate depreciation expenses for anticompetitive purposes. For example, depreciation factors could be adjusted to increase the ILEC-calculated "costs" of bottleneck network components that ILEC competitors require, while simultaneously reducing the "costs" of other network elements that

(footnote continued from previous page)

estimate for 1997 was accurate. See Telecommunications Industry Revenue: 1997, Industry Analysis Division, Federal Communications Commission, October 1998, Table 4.

²⁹ 1997 Preliminary Statistics of Communications Carriers, Table 2.9.

underlie the ILECs' competitive services but are not used by competitors. For these reasons, continued Commission oversight of depreciation is essential given the ILEC's substantial market power.

Nor is there any basis to USTA's claim that Section 220(b) was amended in the Telecommunications Act of 1996 specifically so that the Commission could deregulate the depreciation practices of price cap carriers.³⁰

Prior to its recent amendment, Section 220(b) required the Commission to prescribe depreciation rates for all telephone companies.³¹ The 1996 Act amended Section 220(b) to state that the Commission could prescribe depreciation for "such carriers as it deems to be appropriate."³² The Commission has in the past found it feasible to prescribe depreciation rates for less than 100 of the 1300 ILECs, and therefore requested a change in Section 220(b) to confirm its existing practice of prescribing depreciation factors

³⁰ USTA Petition at 4 (arguing that 1996 Act changed Section 220(b) because it recognized "the need for depreciation reform as the telecommunications marketplace changes.")

³¹ 47 U.S.C. § 220(b) (1990).

³² 47 U.S.C. § 220(b) (1996).

only for the larger ILECs.³³ The intent of this recent amendment, therefore, was to recognize that the Commission needs to focus its attention on the larger ILECs, and not, as USTA would have it, to deregulate the depreciation practices of these same large ILECs.

B. Accurate And Proper Depreciation Expenses Levels Are Essential For Numerous Regulatory Processes And Procedures.

USTA's Petition suggests that depreciation is only significant for purposes of the "low end adjustment mark" under price caps.³⁴ Proceeding from that assumption, USTA argues that low end adjustments have not been frequent, and that the Commission could limit depreciation regulation to cases in which low end adjustments are being sought.³⁵ In a related vein, the Commission's NPRM seeks comment on a BellSouth suggestion that ILECs should be freed from depreciation regulation if they agree to forego low end

³³ See Creating a Federal Communications Commission for the Information Age, Report of the Special Counsel to the Commission on Reinventing Government, February 1, 1995, Appendix A, Item 2.

³⁴ USTA at 12. The "low end adjustment" is a rate increase permitted under the price cap rules in the event that a price cap carrier's rate of return drops below 10.25%. See NPRM at footnote 23.

³⁵ USTA at 12.

adjustments.³⁶

The USTA and BellSouth suggestions are flawed for several reasons. First, the fact that there are few low end adjustments does not signal that depreciation regulation is unnecessary, but is better viewed as a sign that the productivity factor has not been set at a level that fairly reflects the gains possible in the industry. After several years at which the productivity factor has been set at realistic levels,³⁷ the excessive earnings levels that today appear to be experienced by virtually all ILECs will begin to be experienced only by the most productive ILECs. Under those circumstances, ILECs with lower productivity gains may find themselves closer to the low-end adjustment level, and more frequent low end adjustments can be expected. Additionally, the Commission has instituted a proceeding to represcribe the authorized rate of return and the low end adjustment mark for price

³⁶ See NPRM at ¶ 8.

³⁷ The Commission has sought comment on whether to increase the productivity factor. See Public Notice, Commission Asks Parties to Update and Refresh Record for Access Charge Reform and Seeks Comment on Proposals for Access Charge Reform Pricing Flexibility, FCC 98-256, released October 5, 1998.

caps.³⁸ If the prescribed rate of return and low end adjustment mark are reduced substantially, as current market conditions suggest they should, more frequent low end adjustments can be expected.

Second, USTA's suggestion that the Commission limit depreciation regulation to only those companies subject to low end adjustments is not practicable. This proposal would require the review of an unknown number of LEC depreciation filings each year in the limited time available for the review of access tariffs.

Third, BellSouth and USTA are incorrect in their assumption that depreciation regulation only has relevance for price cap low end adjustments. The Commission's depreciation prescriptions figure in a number of important state and federal regulatory processes and procedures beyond the low end adjustment, and therefore the forbearance requested by USTA would have consequences far beyond that narrow context.

³⁸ See Prescribing the Authorized Unitary Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket No. 98-166, *Notice Initiating a Prescription Proceeding and Notice of Proposed Rulemaking*, FCC 98-222, released October 5, 1998.

For example, depreciation regulation is necessary to ensure effective monitoring of LEC price cap performance. Earnings levels in excess of a LEC's cost of capital not only demonstrate its continued market power, but are an important indicator that the existing productivity factor may be too low. The premature deregulation of depreciation would allow LECs to charge excessive depreciation which would lower their earnings and mask the need for a higher productivity factor. The end result would be rates which are neither just nor reasonable.

Prescribed depreciation factors are also used to calculate end user common line charges.³⁹ Further, depreciation factors provide a basis for evaluating the service cost studies submitted by the LECs to support exogenous factor adjustments, new service rates and rates above existing price caps.⁴⁰ The use of excessive depreciation factors in these calculations and studies would result in rates that are not just and reasonable.

Depreciation levels play an important role in the calculation of forward looking costs for purposes of

³⁹ NPRM at ¶ 6.

⁴⁰ Id.

calculating Universal Service support.⁴¹ For example, State Commissions submitting cost studies are required to use depreciation parameters within the ranges prescribed by the Commission.⁴² The Commission has also proposed the use of a weighted average of Commission prescribed factors in the development of universal service costs.⁴³ Deregulation of depreciation would create a risk that excessive depreciation factors would be used to improperly increase universal service subsidies and contributions beyond just and reasonable levels.

The Commission's depreciation prescriptions are also relied on by many State Commissions for intrastate regulatory and rate-setting purposes. For example, a number of State Commissions participate in "three-way meetings" with the Commission and carriers, and prescribe depreciation parameters for intrastate ratemaking which generally agree with those prescribed by the Commission. Indeed, some state Commissions lack the resources to

⁴¹ Id.

⁴² Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157, released May 8, 1997, ¶ 250.

⁴³ Id., *Further Notice of Proposed Rulemaking*, FCC 97-256, released July 18, 1997, ¶ 152.

independently evaluate LEC filings and rely heavily on the Commission's expertise and determinations. The maintenance of just and reasonable intrastate rates is thus often dependent on the FCC's active oversight of ILEC depreciation practices.

State Commissions also rely on FCC depreciation regulation in evaluating Total Element Long-Run Incremental Costs ("TELRIC") cost studies for use in the determination of rates for unbundled network elements ("UNEs") and reciprocal compensation. Numerous State Commissions have adopted the FCC's depreciation factors or the equivalent for use in TELRIC calculations.⁴⁴ Accordingly, miscalculations in the setting of depreciation factors could lead to the establishment of unreasonable rates for UNEs and reciprocal compensation, with consequent harm to the development of local competition.

⁴⁴ See, e.g., Texas, Docket 16189, et al., November 8, 1996; Massachusetts, Docket DPU 96-73/74 et al., December 4, 1996; New York, Docket 95-C-0657, et al., April 1, 1997; West Virginia, Docket 96-1516-T-PC, April 21, 1997; Wyoming, Docket 70000-TF-96-319, 72000-TF-96-95, April 23, 1997; Delaware, Docket 96-324, April 29, 1997; Ohio, Docket 96-922-TP-UNC, June 19, 1997; Colorado, Docket 96S-331T, July 28, 1997; Maryland, Docket 8731, Phase II, September 22, 1997; Louisiana, Docket U-22022/22093, October 22, 1997; Georgia, Docket 7061-U, December 16, 1997; Illinois, Docket 96-0569, February 17, 1998; Virginia, Docket 970005, May 22, 1998.

C. There Is No Satisfactory Alternative To FCC Prescription Of Depreciation Factors.

USTA contends that the Commission's depreciation oversight can be adequately replaced by alternative sources of depreciation standards. For example, USTA suggests that Generally Accepted Accounting Principles ("GAAP") are an adequate substitute for Commission regulation of depreciation.⁴⁵ However, GAAP is governed by the "conservatism" principle, which favors the understatement (versus overstatement) of net income and net assets where any potential measurement problems exist. Such a measurement bias in a regulated industry, however, would lead to the establishment of excessively high depreciation rates, with consequent harm to the public. As the Commission has noted:

Although conservatism is effective in protecting the interests of investors, it may not always serve the interest of ratepayers. Conservatism could be used under GAAP, for example, to justify additional (but, perhaps not "reasonable") depreciation expense by a LEC....⁴⁶

⁴⁵ USTA at 13.

⁴⁶ Depreciation Simplification, Report and Order, 8 FCC Rcd 8025 (1993), ¶ 46.

USTA also contends that Securities and Exchange Commission ("SEC") regulations, stock exchange listing requirements, and audit requirements would protect consumers in the absence of Commission depreciation regulation.⁴⁷ As with GAAP, however, SEC regulations, stock exchange listing requirements and independent audit requirements are designed specifically to protect investors, and not to ensure that the proper inputs for regulatory ratesetting and monitoring are in place and that the interests of ratepayers and competitors are protected.

In regulating depreciation, the Commission balances the interests of both investors and ratepayers. Since this balance is lacking in GAAP, SEC requirements and the like, these measures do not adequately protect consumers or competitors. Consequently, these alternatives cannot be viewed as an adequate substitute for Commission regulation of depreciation.

D. The Commission's Regulation Of Depreciation Has Been Accurate And Fair, And Is Not Unreasonably Burdensome To Carriers Or The Commission.

USTA suggests that the Commission's depreciation policies have led to depreciation reserve deficiencies that

⁴⁷ USTA Petition at 15-16.

should be corrected through forbearance.⁴⁸ USTA also suggests that forbearance will permit ILECs to adopt depreciation factors that are more "market-based,"⁴⁹ implying that the Commission's current factors are not. Contrary to USTA's assertions, however, the facts indicate that the Commission's depreciation regulation has been accurate and fair.

The Commission has examined its depreciation policies to determine if there is a reserve imbalance. The extent of any depreciation reserve imbalance can be assessed by comparing a carrier's book depreciation reserve as stated in its Part 32 accounts with its "theoretical" depreciation reserve, which the ILECs submit to the Commission by July 1 of each year. The NPRM states that its latest analysis indicates that as of January 1, 1997, ILEC book depreciation reserves and theoretical depreciation reserves were approximately the same, proving that there is no depreciation reserve imbalance.⁵⁰ Other analyses suggest in

⁴⁸ Id. at 2.

⁴⁹ Id. at 17.

⁵⁰ Id. at footnote 48.

fact that there is a depreciation reserve surplus, not a deficiency.⁵¹

The Commission also notes that "since the Commission's Depreciation Reform Proceeding in 1980, the life and salvage factors prescribed by the Commission are forward-looking factors that are based primarily on analysis of incumbent LEC investment plans and on judgments regarding the technological obsolescence and economic viability of the assets, rather than a focus on the historical equipment life trends."⁵² The existing factors are, therefore, market-based to begin with. The Commission also found, with the exception of digital switching, that its currently prescribed life ranges are appropriate.⁵³

⁵¹ See Analysis of Local Exchange Carrier Depreciation Reserve Levels, by Richard B. Lee, Snavely King Majoros O'Connor & Lee, January 29, 1997, Attachment C to AT&T's Comments in the Commission's Access Charge Reform Proceeding (CC Docket No. 96-262). See also Report on Andersen Position Paper by Snavely King Majoros O'Connor & Lee, Inc., Attachment A to MCI's September 4, 1998 Reply Comments in 1998 Biennial Regulatory Review - Review of Accounting and Cost Allocation Requirements, CC Docket No. 98-81.

⁵² NPRM at footnote 6.

⁵³ Id. at ¶ 11. As discussed above, the Commission proposes to change the range for Digital Switching from 16-18 years to 13-18 years.

Nor is there any basis to USTA's claim that the Commission's depreciation regulation is so burdensome that forbearance is necessary. USTA overlooks the fact that the Commission has, over the last several years, adopted several modifications to its depreciation regulation policies,⁵⁴ which have substantially simplified processes and filing obligations. In its NPRM, the Commission proposes to dramatically reduce filing requirements for typical ILECs. Accordingly, the "burden" associated with complying with these important regulatory requirements is entirely reasonable and consistent with the importance of depreciation as a factor in state and federal regulatory policies.⁵⁵

⁵⁴ See Simplification of the Depreciation Prescription Process, Report and Order, 8 FCC Rcd 8025 (1993); Second Report and Order, 9 FCC Rcd 3206 (1994); and Third Report and Order, 10 FCC Rcd 8442 (1995).

⁵⁵ While AT&T does not believe that USTA's proposals have any merit, were the Commission to contemplate their adoption at a minimum the Commission should simultaneously (1) eliminate the lower formula rate adjustment; (2) permanently deny the ILECs any right or ability to seek recapture or other relief for any revenue, rate of return or depreciation deficiency, regardless of cause; and (3) continue to develop and publish informational reports on rate of return and price cap results.

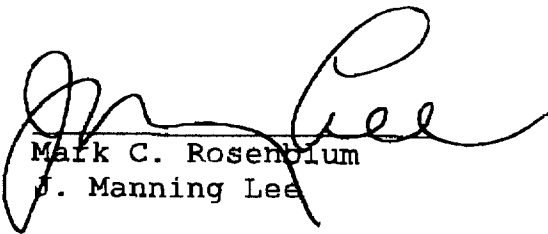
CONCLUSION

The Commission should adopt the proposals set forth in its NPRM, subject to the revisions suggested herein. The Commission should deny the USTA Petition for Forbearance, which fails to satisfy the statutory criteria for the substantial and significant relief it seeks.

Respectfully submitted,

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November 23, 1998

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